1949

Illinois Powder Manufacturing Co. v. State Tax Commission of the State of Utah and R. E. Hammond, J. Welton Ward and Elisha Warner : Brief of Appellant

Utah Supreme Court

Callister, Callister & Lewis; Attorneys for Appellant;

7415

IN THE SUPREME COURT

of the

STATE OF UTAH

ILLINOIS POWDER MANUFACTURING COMPANY, a corporation,
Appellant,

vs.

STATE TAX COMMISSION OF THE STATE OF UTAH and R. E. HAMMOND, J. WELTON WARD and ELISHA WARNER, as the duly appointed and acting commissioners thereof,
Respondents.

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STATEMENT OF THE CASE

This matter reached this court by writ of certiorari from the State Tax Commission. The controversy involves a Use Tax assessment by the State Tax Commission and the case was submitted to the Commission

upon an uncontroverted set of facts, which briefly stated are as follows:

The appellant, Illinois Powder Manufacturing Company, is a foreign corporation duly authorized to do and doing business within the State of Utah. Its general business is the manufacture of explosives, industrial chemicals, and related products. (Tr. 9.)

Being a national concern the books of the company are and were kept at St. Louis, Missouri. Late in the year 1947 a Field Examiner for the State Tax Commission, Moyle Sorenson, audited the books of the company at St. Louis. The examination was a routine one for Sales and Use Tax and covered the operations of the company from the time it began business in Utah in April, 1940 to and including October 31, 1947, a period in excess of seven and one-half (7½) years.

The taxpayer does not complain of the audit or the assessment of the Commission as the same applies to the four-year period immediately preceding the date of the audit, that is the years 1944, 1945, 1946, and 1947. During these years the books and records of both the taxpayer and the Tax Commission are complete and the liability of the company can be fairly and accurately determined. For these later years, after a series of informal discussions between the Commission and the taxpayer (Tr. 8) it was agreed that there were no moneys due under the Sales Tax Act and that a relatively small amount was due under the Use Tax Act. The amount agreed upon was paid by the taxpayer (Tr. 9) and is not now in issue.

As we stated, both the records of the Commission and the taxpayer are complete for the period 1944-1947 inclusive. Consequently a fair and amicable determination of the controversy for this period could be and was reached. But for the years 1940, 1941, 1942, and 1943 *the Tax Commission has destroyed all Sales and Use Tax returns filed by the company.* (Tr. 10.)

The taxpayer fortunately had retained copies of the returns filed for the years 1941, 1942, and 1943 and these duplicates appear in the record. (Tr. 81-105.) Unfortunately the duplicate as well as the original returns of the company for the year 1940 have been destroyed (Tr. 10) and it is during that year, 1940, that the greatest part of the alleged liability is claimed by the Tax Commission. (Tr. 27.)

The Tax Commission's Use Tax regulation, Number 9, provides as follows:

> "9—Books, Records and Invoices.
>
> Every person required to file use tax returns must keep and preserve such adequate and complete records as are necessary to determine the amount of the tax for which he is liable under the act. Such records must show:
>
> 1. All sales of tangible personal property for storage, use or consumption within the State of Utah irrespective of whether the seller regards the same as taxable or non-taxable.
>
> 2. All deductions and exemptions allowed by law and claimed in filing use tax returns.
>
> 3. All bills, receipts, and invoices covering

all purchases of tangible personal property for storage, use or consumption in Utah.

Such records shall be preserved for a period of four years and shall be open for examination at any time by the Tax Commission or its agents."

Although only required to keep records for four years the taxpayer had available its general records for the entire period of the audit, eight years. It was upon these so called general records, and upon them alone, that the Commission bases its claim.

General records show no detail. Consequently the examining officer of the Tax Commission arbitrarily treated as taxable and unpaid every item allocated to Utah under machinery and equipment upon the company's general books. The method used by the examining officer is undisputed. Mr. Holt, Chief Auditor for the Commission testified as follows:

"Q. It is my understanding, Mr. Holt, that Mr. Sorenson arrived at his computation of tax substantially in this manner: that he charged against the Taxpayer every purchase made by the Company that was allocated to the Utah Branch during the years in question, and then eliminated from that the total list of the vendors whose names were familiar to the examining auditor as being Utah vendors, and the rest were left in, and formed the basis for this deficiency assessment. It that correct?

A. That is correct, with one qualification: that the procedure that was established by Mr. Sorenson was agreed upon at the time of

the audit with their auditor, and if any items were in there that should not have been, their auditor would so examine the report, and advise Mr. Sorenson of which ones should be eliminated.

Q. Do you know to whom you refer when you say the auditor?

A. Not unless I refer to the file.

Q. You may refer to the file.

A. The auditor at the time was Mr. G. A. Camerson.

Q. At the time Mr. Sorenson made this audit, he didn't determine, as I understand it, Mr. Holt, whether or not the vendors listed in the audit were or were not Utah vendors.

A. Well, he determined to the best of his ability, after he returned to this office, if they were Utah vendors.

Q. Did he at the time of the audit, or any time otherwise, determine whether the Illinois Powder Company had paid a tax upon these purchases in any other state?

A. No, that was not determined.

Q. It is quite possible, is it, as far as the audit goes, and as far as Mr. Sorenson's records go, that the Illinois Powder Company may have paid an excise tax of some nature on some, and possibly all of the purchases listed in the audit report?

MR. TAYLOR: I object to that as calling for a conclusion of this witness, that he has no way of knowing.

(DISCUSSION CONTINUED
OFF THE RECORD)

MR. TAYLOR: I will submit the question.

COM. HAMMOND: The objection will be overruled, and the witness may answer the question, if he can.

A. Well, it is possible that the tax might have been paid on some of the purchases.

Q. Is it your understanding, Mr. Holt, from consulting with Mr. Sorenson, that you expected the Illinois Powder Company, after this audit was made, and after the assessment was made, to furnish you with any information relative to prior payment of excise taxes, if they claimed such a fact to be?

A. Yes, that is right.

Q. And likewise you expected the Illinois Powder Company to furnish you with any information they might have which would substantiate any claim that any of the purchases listed in the audit report were made from Utah vendors, and therefore subject to the sales tax?

A. That is right.

Q. You are familiar, aren't you, Mr. Holt, with the ordinary and usual book-keeping methods of companies in business in the State of Utah?

A. That is right, yes.

Q. And with companies comparable to the Illinois Powder Company?

A. Yes.

Q. Is it customary for companies such as this to retain records in excess of seven years on such matters as we are here concerned with?

A. Well, as far as what you would call general records in the books, I would say yes; but as far as sales invoices and purchase invoices, and things of that nature, I would say no.

Q. Now, the payment of sales tax upon a particular purchase would ordinarily, under good accounting system, show up on invoices and purchase orders and like documents, and would not be recorded by itemization on general records?

A. That is right.

Q. The audit made by Mr. Sorenson, as it pertained to sales tax, as I understand it, found that the amount paid to the State of Utah was correct, and that the company wasn't in default, or that there was no deficiency in that regard whatsoever?

A. That is correct.

Q. As a matter of fact, it is true, isn't it, that the books and records kept by the Illinois Powder and Manufacturing Company are exceptionally well kept in that they are such a large company, that they have a comprehensive accounting department and system?

A. As far as I could determine, I would say yes." (Tr. 13-15.)

Such a system of auditing, that is, arbitrarily treating every purchase (except purchases from such vendors as the examining officer happened to recognize as Utah vendors) as taxable *and* unpaid resulted of course, in

a large claimed deficiency. (The examining officer deleted purchases made from Utah vendors upon the presumption that the appellant had probably paid a Sales Tax upon such purchases although the records did not reflect this fact.) *To such an amount the Commission then added a penalty of ten percent* (10%) *and twelve percent* (12%) *interest for eight years as a penalty for negligence upon the part of the taxpayer!* At the hearing before the Commission this penalty was lifted (Tr. 4) leaving the sum of $4,208.26 now in issue.

Every two months since the Illinois Powder Manufacturing Company entered the State of Utah the company has faithfully filed with the Commission its Form 71, Sales and Use Tax Return (Tr. 10). For the convenience of the court a blank copy of this form is attached to the cover of this brief. As previously noted the original returns filed by the taxpayer have been destroyed by the Commission but the copies retained by the taxpayer for the years 1941-1943, inclusive, are part of the record. The significant detail contained in these returns together with detail contained in the audit report will be more fully set forth in the argument. We believe it sufficient to here note that although the Commission has treated the returns as a nullity the court will notice that the taxpayer has in many instances filled out that portion of the return relating to Use Tax as fully as could be expected and will further note that the audit report has claimed as taxable many items clearly not subject to tax, such as freight and labor charges.

To the claims of the Commission the taxpayer protested upon these grounds:

1. The claimed liability was excessive.

2. The assessment was barred by the Statute of Limitations, and

3. The taxpayer was not guilty of negligence (Tr. 55). Inasmuch as the question of the applicability of the Statute of Limitations was then under consideration by this court in the case of *Whitmore Oxygen Company v. State Tax Commission,* 196 Pac. 2d, 976, the hearing before the Tax Commission was delayed until the rendition of the decision in the Whitmore case and thereafter to meet the mutual convenience of the parties.

Notwithstanding these facts, uncontroverted as they are, the Tax Commission found that the Illinois Powder Manufacturing Company had a liability executed in accordance with the alleged audit and that the company had failed to file a Use Tax return at anytime between April 1, 1940 to October 31, 1947.

ASSIGNMENTS OF ERROR

1. The Tax Commission erred in its conclusion "That during the period April 1, 1940 to October 31, 1947, the Illinois Powder Manufacturing Company failed to file a Use Tax Return with the State Tax Commission." (Conclusion No. 1, Tr. 5.)

2. The Tax Commission erred in failing to find that the deficiency Use Tax assessment was barred by

the provisions of Title 104-2-24.10, Utah Code Annotated 1943 as amended.

3. The Tax Commission erred in failing to find that the deficiency Use Tax Assessment was barred by the provisions of Title 104-2-30, Utah Code Annotated 1943, as amended.

4. The Tax Commission erred in failing to find that the assessment was arbitrary and capricious and without basis in law and fact.

5. The Tax Commission erred in denying the Appellant's claim for refund.

QUESTIONS INVOLVED

Two general questions are presented upon this appeal:

1. Does the taxpayer's procedure in filing the Tax Commission's Form 71 constitute the filing of a Use Tax Return? If answered in the affirmative, it follows, we submit, that the assessment of the Commission is barred by each of several Statutes of Limitation, and no further question need be considered.

2. Is the method used by the Commission in making this assessment so unconscionable as to be a nullity?

STATEMENT OF ARGUMENT

In this brief, appellant will present the following points:

1. The taxpayer has filed with the Tax Commis-

sion every two months, the Commission's Form 71, and the purported deficiency Use Tax assessment is barred by the provisions of each of several Statutes of Limitation. The factual situation in the instant case is distinguishable from those presented to this court in *Whitmore Oxygen Company v. State Tax Commission.*

2. The arbitrary method of assessment is unconscionable due to the great length of time that has elapsed since the transactions involved occurred and if allowed to stand, the taxpayer through no fault of its own, is at the mercy of the whims and capriciousness of those charged with administering the tax laws.

ARGUMENT

Point 1.

THE ASSESSMENT IS BARRED BY THE STATUTE OF LIMITATIONS.

Appellant's first contention is that the assessment of the Commission, even if it were accurate and conscionable would be and is barred by the Statute of Limitations. The Use Tax is a self assessing tax and the filing of a return is the incident precedent to the initiation of the period of limitation. Notwithstanding the fact that Form TC 71 has been filed regularly by the taxpayer and has been sworn to by the taxpayer as a true and complete return for Sales *and* Use Tax the Commission has treated the returns as a nullity under the Use Tax Act and claims the right to audit for this tax without limitation. *And they claim that right even*

though they have, themselves, destroyed the very returns they say are a nullity. In effect they concede that their claim is so stale that they chose to wipe their own records clean and then they accuse and attempt to penalize (ten percent (10%) for negligence!) the taxpayer for doing the same thing. We doubt that we can ever present to this court a situation where the object and nature of a statute of limitation is more clearly applicable.

The Statute of Limitations is one of repose to prevent the assertion of stale claims against one helpless to defend simply through lapse of time.

> "Although in the past the courts have entered various views as to the character of statutes of limitation, it is now the prevailing view that such an enactment is not designed merely to raise a presumption of payment of a just debt from lapse of time, but is a statute of repose, the purpose or object of which is to compel the exercise of a right of action within a reasonable time. Statutes of limitation are designed to prevent undue delay in bringing suit on claims and to suppress fraudulent and stale claims from being asserted, to the surprise of the parties or their representatives, when all the proper vouchers and evidence are lost, or the facts have become obscure from the lapse of time or the defective memory or death or removal of witnesses. The mischief which statutes of limitation are intended to remedy is the general inconvenience resulting from delay in the assertion of a legal right which it is practicable to assert." American Jurisprudence, Vol. 34, Pages 18-20.

The Commission's claim initiates in April, 1940,

eight years before its assertion. During all this time the Illinois Powder Company was filing returns and could have been audited at anytime. The original returns filed are now destroyed by the Commission, the duplicates for 1940 are now destroyed by the taxpayer and no invoices, vouchers, or other detail of the purchases set up as taxable are available. Nor could the taxpayer be expected to retain such evidence, either under the regulation of the Commission (Regulation 9, supra) or under good accounting practice. Such was the admission of the Commission's auditor, Mr. Holt. (Tr. 14-A.)

At this late date it cannot now be determined whether the taxpayer has paid a tax in another state upon each transaction contained in the audit report. The Tax Commission concedes this possibility.

> "Q. It is quite possible, is it, as far as the audit goes, and as far as Mr. Sorenson's records go, that the Illinois Powder Company may have paid an excise tax of some nature on some, and possibly all of the purchases listed in the audit report?"
>
> "(Objection overruled)"
>
> "A. Well it's possible that the tax might have been paid on some of the purchases." (Tr. 14 and 14-A.)

At this late date it cannot now be determined whether the taxpayer has paid a tax *in Utah* upon each transaction contained in the audit report. Upon many of the items the examining auditor presumed that such a tax had been paid for he eliminated from his audit

report those purchases made from vendors whom he personally recognized as being Utah vendors. (Tr. 13.) Upon such purchases he assumed that the Utah vendor had collected the tax.

So the Tax Commission *presumes* that no foreign state has collected one penny of tax, *presumes* that all Utah vendors have collected all their tax, *presumes* that the examining officer has personally recognized by name all Utah vendors and that none are now left in the report, *presumes* that none of the purchases now claimed have been reported by the taxpayer either as Use Tax in the year 1940 or lumped in the Sales Tax report for other years, *presumes* that the returns filed by the taxpayer are a nullity even though destroyed by the Commission itself.

It is apparent that if any one of the presumptions of the Commission is in fact erroneous then the assessment of the Commission is erroneous and the taxpayer is being wronged. This the Commission concedes but merely shrugs the taxpayer off with the statement that the burden is upon the taxpayer to prove the error in the Commission's assessment. If such a burden exists for the taxpayer we concede we cannot now meet it. But we cannot meet it for the same reason that the Commission cannot make an assessment based upon known facts: The transactions are so stale that all detailed records are destroyed, ours as well as the Commission's.

The Commission bases its claims, arbitrary and unfair as we believe them to be, upon the authority of

the Whitmore Oxygen Case, supra. In the Whitmore case this court held that where a taxpayer ignores that portion of Form 71 devoted to Use Tax, that the filing of the return in that form does not constitute a Use Tax return so as to start the Statute of Limitations. But the factual and moral situations in that case are easily distinguishable from those now presented to the court in the instant case.

The claim of the Commission in the Whitmore case was stale but stale only by lapse of time. Evidence of the actual facts was still available. It was conceded that the Whitmore Company had totally ignored the Use Tax portion of the returns. The returns were still available, not destroyed as in the instant case.

In the Whitmore Case a single transaction was involved and the taxpayer remembered and stipulated that no tax in Utah or elsewhere had ever been paid. In the case now presented literally hundreds of transactions are involved and the taxpayer does not know and could not be expected to know whether or not it has paid tax in Utah or elsewhere. In contrast to the stipulation in the Whitmore case that no tax had been paid it is here conceded that the taxpayer may have actually paid the tax. (Tr. 14-A.) So while the plea of the Statute of Limitation in the Whitmore case was purely a technical plea, in the instant case it is much more. In the Whitmore case the actual facts were known, regardless of the lapse of time. Here the actual facts are not known and the Statute of Limitations is pleaded to

meet the very situation that such a statute is intended to meet.

The crux of the Whitmore decision was the fact that the taxpayer had left all portions of the return relating to Use Tax blank. The court states it thus at 196 Pac. 2d, 982.

> "The form is so designed that the entries for each tax are severable and if the taxpayer intends to claim a return for both taxes some words or figures should be entered in both divisions of the form. The plaintiff not having by words, statements, or figures indicated in the body of the use tax division of the form that it intended this portion of the form to be treated as part of the completed form, we hold the return was not sufficient to start the statute of limitations running against a use tax."

But in the instant case, as indicated by the duplicate returns retained by the taxpayer, the taxpayer has filled in the Use Tax portion of the form with words, statements, and figures. Usually the taxpayer just wrote in "O" or drew a line, thus "———". But from time to time the word "none" actually was written out. (Tr. 87, 88, 89, 90.) What more could a taxpayer do to apprise the Commission that the return was intended to cover Use Tax? Pay some tax? This too was done at least once. (Tr. 91.)

This court, in the Whitmore case cites with approval *Zellerbach Paper Company v. Helvering,* 293 U. S. 172, 180, 55 Supreme Court 127, 131, 79, Lawyer's Ed., 264, 269, wherein the Supreme Court of the United States establishes the following rule as governing:

> "Perfect accuracy or completeness is not necessary to rescue a return from a nullity, if it reports to be a return, is sworn to as such, and evinces an honest and genuine endeavor to satisfy the law."

We cannot now tell whether the original returns filed by the Illinois Company were perfectly accurate or not, for they are destroyed. But we can tell from the duplicate returns retained by the company that the company was conscious of the fact that Form 71 covered two taxes, Sales and Use. Take for example the July-August 1942 return of the company. (Tr. 89.) On line 2 of that return the symbol "-O-" appears for Sales Tax. The symbol reappears on line 10 for Use Tax and on line 8 the word "none" is written out for Use Tax. But the Commission says this return is valid for Sales Tax but not for Use Tax. We submit that such an interpretation is utterly foolish and arbitrary in the extreme. The State of California, while adhering to the rule first established by this court in the Whitmore case, recognizes that a notation of "none" or "O" is sufficient to make a return valid. *People v. Universal Film Exchange,* 204 Pac. 2d 401 at 402: (Certiorari to the Supreme Court of California has been granted to further consider the question of whether or not even a blank return isn't sufficient.)

In the Whitmore case Mr. Justice Latimer stated in making his ultimate conclusion regarding a totally blank return:

> "We hold that on authority and principle the returns filed by plaintiff did not commence

> the running of the period of limitations. To successfully contend that a return within the meaning of the Use Tax Act has been filed, the plaintiff must be able to show it has filed a return apprising the Tax Commission that it claims no taxes due or that a stated amount is due."

We have no hesitancy to state that the Illinois Powder Manufacturing Company has, upon both authority and principle, fully satisfied any reasonable administrative interpretation of the laws of this state. The company has most certainly made "an honest and genuine endeavor to satisfy the law" and if the use of the numeral "O", the symbol "-O-" and the written word "none" isn't sufficient "to apprise the Tax Commission that the taxpayer claims no taxes due" then we doubt that it can be done. As Mr. Justice Pratt says in his dissent in the Whitmore case, "what taxpayer is qualified to read the mind of the Commission?"

Point 2.

THE ASSESSMENT OF THE COMMISSION IS SO ARBITRARY AS TO BE A NULLITY.

Having indulged in presumption after presumption in order to make the assessment the Commission has literally 'thrown the book' in the method used to arrive at the amount of their claim. There is no sound accounting basis for the assessment and of course there can be none for accurate detailed records are not now available.

We have previously indicated the method used

by the examining auditor in arriving at his conclusions. He has treated as taxable and unpaid every single entry appearing upon the company's general records for Utah. Many of the items lumped into his report do not appear to be subject to Use Tax if proper detailed information were available. Take for example the report for the year 1940. (Tr. 28-29.) The following items are charged as taxable and unpaid:

Repairs	$ 1,225.00
Freight	685.12
Freight	51.66
Install Boilers	$12,676.00

Similar entries appear on each page of the audit report.

In *Whitehall Sand & Gravel Company v. State Tax Commission,* 106 Utah 469, 150 Pac. 2d, 370, this court held that repair charges, freight charges and installation charges (labor) as such, are not subject to Sales or Use Tax. Nevertheless the Commission approves the assessment upon such items. Again the Commission says: "Our assessment is prima facie correct. The burden is upon you to show the error."

Again we concede that if such a burden exists under these circumstances we cannot meet it for the detail on these transactions is long since forgotten. (Note the item at Tr. 38 which is merely listed as a question mark.)

A taxpayer is only required to keep records for four years. If the Illinois Powder Company had kept their

general records for four years only this assessment could never have been made, for no other information was kept by either the taxpayer or the Commission. If the assessment is allowed to stand it means just this: A taxpayer to be safe, must destroy *all* his records after four years or must retain all his invoices, vouchers, and supporting records forever. For if the Commission can go back eight years as they did here they may go back to the date the Tax Act was originally passed. No taxpayer can operate a business if such a burden exists. The expense of producing and analyzing such detailed evidence, even if the information were retained, would be prohibitive and an undue burden.

CONCLUSION

The good faith of the taxpayer is conceded. (Tr. 10.) The books and records of the company meet all the requirements of the Utah law and of the Commission's regulations. (Tr. 10.) The company has a comprehensive accounting department and their records are exceptionally well kept. (Tr. 15.) They have filed Form 71 every two months for eight years prior to this controversy. They have indicated by words, figures, statements and payments that they intend the form to cover both Sales and Use Tax. They have solemnly certified that the return covered both taxes. (See Certification on Form 71 attached.) They have done everything that a taxpayer could be expected to do.

On the contrary the Commission has done nothing except destroy the records. For eight years they

failed to audit although apprised that the taxpayer was in business in Utah, was filing Form 71 as required, was liable for and was paying Use Tax upon occasion, and was claiming none due with reasonable regularity upon their returns. And then after eight years the Commission, relying entirely upon general records which admittedly do not reflect correct tax liability, makes an arbitrary assessment of many thousands of dollars. Item after item contained in the report (repairs, labor, freight) are probably not taxable at all. It would take exceptional circumstances to make them taxable. Upon those items that are taxable the tax may have been paid in the state where the transaction occurred.

The power to impose, assess and collect taxes is one given to legislative and administrative bodies by citizens in return for orderly government. When abused such power amounts to tyranny and the power of destruction. A less financially stable company would have been destroyed by this assessment.

Over the objection of counsel, certain original and duplicate returns of the taxpayer for the years 1944 to 1949, inclusive are contained in the record. (Tr. 63-80, 107-141.) The instant controversy does not involve the years for which these returns are filed and consequently the objection of immateriality was made. (Tr. 16). We think our position concerning the admissibility of these documents to be sound and that they are improperly contained in the record. However, at the hearing before the Commission, counsel for the Commission argued that the contents and form of these later

returns could be used to determine what was contained in the returns destroyed by the Commission for the years in issue, 1940 to 1943. Such a position is wholly untenable. Presumptions are never retrospective.

> "The presumption of the continued existence of a person, a personal relation, or a state of things is prospective, and not retrospective. Such a presumption never runs backwards; the law does not presume, from proof of the existence of present conditions or facts, that the same facts or conditions had existed for any length of time previously." (American Jurisprudence, Vol. 20, Page 208.)

We submit that the assessment of the Commission is a nullity, is barred by the provisions of Title 104-2-24.10, Title 104-2-30 and that the order of the Commission denying appellant's claim for refund should be reversed.

Respectfully submitted,

CALLISTER, CALLISTER & LEWIS
Attorneys for Appellant

READ INSTRUCTIONS CAREFULLY BEFORE FILLING OUT RETURN

Computations Checked _____

(Auditor's Stamp)

STATE TAX COMMISSION OF UTAH

Sales Tax and Use Tax Return

PERIOD

From _____

To _____

DO NOT WRITE IN THIS SPACE

Receipt Number _____

Amount Paid $ _____

AMOUNT SUBJECT TO SALES TAX

1. Total Sales as defined in Sales Tax Act (include both cash and credit sales and taxable rentals)	$	
2. Add—Value of tangible personal property originally purchased for resale (without tax) and subsequently used or consumed rather than resold		
3. TOTAL (Item 1 plus Item 2)	$	
4. Less—Allowable Deductions (Details must be shown in Schedule on back hereof)		
5. NET TAXABLE SALES SUBJECT TO SALES TAX (Item 3 less Item 4)	$	

AMOUNT SUBJECT TO USE TAX

6. SALES—Total sales upon which you are responsible for collection of Use Tax (see "Instructions")	$	
7. PURCHASES—Total purchase price of tangible personal property purchased for storage, use, or other consumption in this state on which the seller has not collected Sales or Use Tax (see "Instructions")		
8. TOTAL AMOUNT SUBJECT TO USE TAX (Item 6 plus Item 7)	$	

COMPUTATION OF TAX

9. Total Sales Tax due — 2% of amounts shown in Item 5	$	
10. Less: Allowance for collecting Sales Tax as per Schedule A on page 2 of this return. (Credit will not be allowed if tax is delinquent.)		
11. Net Sales Tax Due and Payable (Item 9 less Item 10)	$	
12. Total Use Tax due and payable — 2% of amount shown in Item 8		
13. TOTAL SALES TAX AND USE TAX DUE AND PAYABLE (Item 11 Plus Item 12)	$	

IMPORTANT — Penalty and interest attaches if not filed and PAID within 15 days after end of period for which due.

Penalty—10% of tax or $2.50, whichever is greater		
Interest—1% per month from _____ (Date Due) to _____ (Date Paid)		
TOTAL TAX, PENALTY AND INTEREST	$	

PLEASE ANSWER QUESTIONS ON REVERSE SIDE

CERTIFICATE

I HEREBY CERTIFY, That I have examined this return and that the statements made and the figures shown herein and in accompanying schedules are to the best of my knowledge and belief a true and complete return, made in good faith for the period stated, pursuant to the Emergency Revenue Act and the Use Tax Act, Title 80, Chapters 15 and 16, Utah Code Annotated, 1943, as amended and regulations issued under authority of both acts.

Do Not Write Here

E.O. _____

No. _____

Be Sure to Sign Certificate

_____
Name of business or taxpayer

_____
Agent, or officer if corporation, trustee, etc.

_____
Title

Pay tax to and file return with STATE TAX COMMISSION at Salt Lake City, Utah

as required in Item 4 on Page 1

(Do not claim deductions for any items or amounts not included in Item 1 on Page 1)

14. *Sales of tangible personal property for the purpose of resale and sales defined in the Act as "Wholesale Sales"*	$	
15. Retail sales in interstate commerce involving shipments from Utah		
16. Sales of cigarettes and cigarette papers subject to tax under Cigarette Tax Law		
17. Sales of motor fuels subject to tax under Motor Fuels Tax Law		
18. Sales of oleomargarine subject to tax under Oleomargarine Tax Law		
19. Sales of beer subject to tax under Beer Excise Tax Law		
20. Sales to U. S. Government and to the State of Utah and its political subdivisions		
21. Sales to religious, charitable or eleemosynary institutions for use in the conduct of their regular religious, charitable and eleemosynary functions and activities		
22. Sales of services included in Item 1, on Page 1, which are not subject to tax and which are not a part of the charge for the tangible personal property sold		
23. Any other deductions authorized by law (Give detailed explanation)		
24. TOTAL DEDUCTIONS (Carry forward to Item 4 on Page 1)	$	

SCHEDULE A
COMPUTATION OF 5% DEDUCTION
(No More Than $100.00 Can Be Deducted In Any One Calendar Year)

Total Sales Tax Due (Item 9, Page 1) ..... $.....

5% of above, but total not to exceed $100.00 in any one calendar year (Enter as Item 10, Page 1) ..... $.....

Amount of tax previously deducted this calendar year ..... $.....

Amount of tax deducted this return ..... $_____

Total tax deducted to date this calendar year ..... $.....

ANSWER ALL OF THE FOLLOWING QUESTIONS

A. Kind of business.....
Describe accurately, viz., grocery, printing equipment, clothing, etc.

B. Does this return cover sales made at more than one place of business?..... If so, Form TC-71A, Sales Tax and Use Tax Schedule of Sales at Each Separate Place of Business, must be attached to and form a part of this return.

C. Was business PERMANENTLY DISCONTINUED or SOLD during this period?..... If so, give date.....

19....., and IF SOLD, name of new owner.....

D. NOTE: SEASONAL BUSINESSES—If this is your final return for the season, give date closed..... 19.....

and date you expect to resume business..... 19.....

E. Has name, address or type of ownership (i.e., corporation, partnership, individual ownership) changed during this period?

..... If so, give information here.....

F. At what address are the books and records kept?.....

DUPLICATE — Keep this copy for your files
Do not send to Tax Commission

STATE TAX COMMISSION OF UTAH

Sales Tax and Use Tax Return

Send the ORIGINAL return with remittance in full to the State Tax Commission, 118 State Capitol, Salt Lake City. Do not send coin or currency by unregistered mail.

Return for the bi-monthly period:
FROM _____
TO _____
19.....

AMOUNT SUBJECT TO SALES TAX

1. Total Sales as defined in Sales Tax Act (include both cash and credit sales and taxable rentals)	$	
2. Add—Value of tangible personal property originally purchased for resale (without tax) and subsequently used or consumed rather than resold		
3. TOTAL (Item 1 plus Item 2)	$	
4. Less—Allowable Deductions (Details must be shown in Schedule on back hereof)		
5. NET TAXABLE SALES SUBJECT TO SALES TAX (Item 3 less Item 4)	$	

AMOUNT SUBJECT TO USE TAX

6. SALES—Total sales upon which you are responsible for collection of Use Tax (see "Instructions")	$	
7. PURCHASES—Total purchase price of tangible personal property purchased for storage, use, or other consumption in this state on which the seller has not collected Sales or Use Tax (see "Instructions")		
8. TOTAL AMOUNT SUBJECT TO USE TAX (Item 6 plus Item 7)	$	

COMPUTATION OF TAX

9. Total Sales Tax due — 2% of amounts shown in Item 5	$	
10. Less: Allowance for collecting Sales Tax as per Schedule A on page 2 of this return. (Credit will not be allowed if tax is delinquent.)		
11. Net Sales Tax Due and Payable (Item 9 less Item 10)	$	
12. Total Use Tax due and payable — 2% of amount shown in Item 8		
13. TOTAL SALES TAX AND USE TAX DUE AND PAYABLE (Item 11 Plus Item 12)	$	

IMPORTANT — Penalty *and interest attaches if not* filed and PAID within 15 days after end of period for which due.

Penalty—10% of tax or $2.50, whichever is greater		
Interest—1% per month from ..... (Date Due) to ..... (Date Paid)		
TOTAL TAX, PENALTY AND INTEREST	$	

RETURNS MUST BE FILED ON A CALENDAR BI-MONTHLY (each two months) BASIS

To avoid penalties the return must be filed and paid within 15 days after end of period for which the return is due.

A return blank will be mailed to you at the end of each bi-monthly period. If you do not receive your blank within 5 days thereafter, you should immediately notify this office.

TAXPAYER'S RECORD OF FILING

Date Filed .....

Place .....

Payment made by:

Check ☐ M. O. ☐ Cash ☐

as required in Item 4 on Page 1

(Do not claim deductions for any items or amounts not included in Item 1 on Page 1)

14. Sales of tangible personal property for the purpose of resale and sales defined in the Act as "Wholesale Sales"	$	
15. Retail sales in interstate commerce involving shipments from Utah		
16. Sales of cigarettes and cigarette papers subject to tax under Cigarette Tax Law		
17. Sales of motor fuels subject to tax under Motor Fuels Tax Law		
18. Sales of oleomargarine subject to tax under Oleomargarine Tax Law		
19. Sales of beer subject to tax under Beer Excise Tax Law		
20. Sales to U. S. Government and to the State of Utah and its political subdivisions		
21. Sales to religious, charitable or eleemosynary institutions for use in the conduct of their regular religious, charitable and eleemosynary functions and activities		
22. Sales of services included in Item 1, on Page 1, which are not subject to tax and which are not a part of the charge for the tangible personal property sold		
23. Any other deductions authorized by law (Give detailed explanation)		
24. TOTAL DEDUCTIONS (Carry forward to Item 4 on Page 1)	$	

SCHEDULE A
COMPUTATION OF 5% DEDUCTION
(No More Than $100.00 Can Be Deducted In Any One Calendar Year)

Total Sales Tax Due (Item 9. Page 1) ..... $.....

5% of above, but total not to exceed $100.00 in any one calendar year (Enter as Item 10. Page 1) ..... $.....

Amount of tax previously deducted this calendar year ..... $.....

Amount of tax deducted this return ..... $.....

Total tax deducted to date this calendar year ..... $.....

ANSWER ALL OF THE FOLLOWING QUESTIONS

A. Kind of business.....
Describe accurately, viz., grocery, printing equipment, clothing, etc.

B. Does this return cover sales made at more than one place of business?..... If so, Form TC-71A, Sales Tax and Use Tax Schedule of Sales at Each Separate Place of Business, must be attached to and form a part of this return.

C. Was business PERMANENTLY DISCONTINUED or SOLD during this period?..... If so, give date.....
19....., and IF SOLD, name of new owner.....

D. NOTE: SEASONAL BUSINESSES—If this is your final return for the season, give date closed....., 19.....
and date you expect to resume business....., 19.....

E. Has name, address or type of ownership (i.e., corporation, partnership, individual ownership) changed during this period?
..... If so, give information here.....

F. At what address are the books and records kept?.....

Retain this for your files

DUPLICATE